

ZB# 95-40

Pierre Belle

**32-2-12.22, 12.23, &
12.24**

Prelim.
Sept. 11, 1995

Letter out 10/6/95

Fees: - ① 50.00 4
 ② 300.00 4

Notice to Sentinel 4
Paid

Copy of

① Deed 4

② Photos 4

Notice to Sentinel 9/27/95

Public Hearing:

October 23, 1995

Use Variances

Denied

2-3 neg.

Refund \$227.17
Jul

#95-40 - Belle, Pierre P. III

32-2-12.22

TOWN OF NEW WINDSOR

555 Union Avenue

New Windsor, NY 12550

GENERAL RECEIPT

14746

July 19 1995Received of Rene & Nancy Belle\$ 150.00One Hundred fifty 00/100

DOLLARS

For ZBA # 95-40-41-42

DISTRIBUTION:

FUND	CODE	AMOUNT
ck# 1031		150.00

By Dorothy H. HansenTown Clerk

Title

[illegible]

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Belle, Pierre L. III

FILE # 95-40

RESIDENTIAL: \$50.00

COMMERCIAL: \$150.00

APPLICATION FOR VARIANCE FEE \$ 50.00 paid

* * * * *

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 300.00 paid

DISBURSEMENTS -

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING - PER PAGE	9/11/95 - 11 page	\$	<u>16.50</u>	(1/3 share)
2ND PRELIM. MEETING - PER PAGE	10/23/95 - 99 "	\$	<u>33.00</u>	"
3RD PRELIM. MEETING - PER PAGE		\$		
PUBLIC HEARING - PER PAGE		\$		
PUBLIC HEARING (CONT'D) PER PAGE		\$		
TOTAL			\$	<u>49.50</u>

ATTORNEY'S FEES: \$35.00 PER MEETING

PRELIM. MEETING-	HRS.	9/11/95	\$	<u>35.00</u>	} 1/3
2ND PRELIM.	HRS.	10/23/95	\$	<u>35.00</u>	
3RD PRELIM.	HRS.		\$		
PUBLIC HEARING	HRS.		\$		
PUBLIC HEARING	HRS.	(CONT'D)	\$		
TOTAL HRS.		@ \$	PER HR.	\$	
TOTAL				\$	<u>23.33</u>

MISC. CHARGES:

TOTAL \$ 72.83

LESS ESCROW DEPOSIT . . . \$ 300.00
 (ADDL. CHARGES DUE) . . . \$
 REFUND TO APPLICANT DUE . \$ 227.17

(ZBA DISK#7-012192.FEE)

PIERRE P. BELLE, III
NANCY BELLE
2 BELLE CT.
NEW WINDSOR, NY 12553

50-693/219

1031

PAY TO THE
ORDER OF

Town of New Windsor 7/18/95 19 95
One Hundred Fifty Dollars \$ 150.00
XX
100 DOLLARS



Key Bank of New York
Route 32
Valle Gate, NY 12584
Valle Gate Office

302

MEMO

2BA #95-46/41/42

Pierre P. Belle MP

⑆021906934⑆ 024 22 383 21⑈ 1031

SAFETY PAPER

PIERRE P. BELLE, III
NANCY BELLE
2 BELLE CT.
NEW WINDSOR, NY 12553

50-693/219

1030

PAY TO THE
ORDER OF

Town of New Windsor 7/18/95 19 95
Nine Hundred Dollars and 00/100 \$ 900.00
XX
100 DOLLARS



Key Bank of New York
Route 32
Valle Gate, NY 12584
Valle Gate Office

302

MEMO

3 Lot Variance 2BA #95-46/41/42

Pierre P. Belle MP

⑆021906934⑆ 024 22 383 21⑈ 1030

PUBLIC NOTICE OF HEARING BEFORE

ZONING BOARD OF APPEALS

TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following proposition:

Appeal No. 40

Request of PIERRE BELLE

for a VARIANCE of the Zoning Local Law to permit:

FOUR (4) FAMILY UNITS IN AN R-3 ZONE

being a VARIANCE of Section 48-12 (BULK REGULATIONS)

COLUMN A LINE 13

for property situated as follows:

BELLE COURT, NEW WINDSOR, NEW YORK 12553

known as tax lot Section 32 Block 2 Lot 12.22.

SAID HEARING will take place on the 1 day of ,
1995, at New Windsor Town Hall, 555 Union Avenue, New Windsor,
New York, beginning at 7:30 o'clock P.M.

JAMES NUGENT
Chairman

NEW WINDSOR ZONING BOARD OF APPEALS

32-2-12.22

32-2-12.23

In the Matter of the Application of

32-2-12.24

PIERRE BELLE

DECISION DENYING
USE VARIANCES

#95-40, 41 & 42..

WHEREAS, PIERRE BELLE, residing on Belle Court, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for a use variance to permit three existing four-family residences in an R-3 zone on Belle Court; and

WHEREAS, public hearings were held on the 23rd day of October, 1995, before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared by himself and by J. Tad Seaman, Esq. and by Richard Sluska, real estate appraiser; and

WHEREAS, there were five (5) spectators attending the hearings; and

WHEREAS, one person spoke and raised certain questions with respect to the financial interest of the owner of the buildings.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence presented by the applicant showed that:

(a) The subject properties were the subject of New Windsor Planning Board site plan approval and were constructed thereafter as two-family homes.

(b) After the completion of these structures as two-family homes, the owner physically converted them into four-family homes.

(c) For that conversion he obtained no building permits or variances.

(d) Items 1 through 6 of the permitted uses in this zone according to the code all have a requirement of more than five acres which is substantially less than the acreage of any of the three parcels for which these variances are sought.

(e) The only permitted uses in the zone for which the size of the properties is adequate is for one or two-family homes.

(f) The structures have been taxed for approximately three years as four-family structures and have physically been used for that purpose for that period of time although no permission was sought or obtained for that use.

(g) The real estate appraiser presented an extensive analysis of the financial use of the property as two family as opposed to their use as four family.

(h) The appraiser testified that these properties would have no value as two-family dwellings because they would produce a loss each year.

(i) The real estate appraiser did not offer an opinion as to the value of these properties if they were owner-occupied, two-family properties but only as purely income properties.

(j) The dwellings are located on what is a private road but it appears that the road was built to Town specifications and was intended to be and has been offered to the Town as a public road. As of the date of this application, the Town has not accepted it, however.

(k) The applicant claims that the hardship to the property is due to the fact that there is a mobile home park on one side and an aqueduct on the other.

(l) The applicant subsequent to the construction of the buildings had prospective tenants tell him that they would not rent the house for the amount of money the applicant asked because it is sitting in back of a mobile home park and because the prospective tenant cannot walk across the property without being arrested for trespassing on the lands of the New York City Aqueduct.

(m) The buildings were not built at the same time and were built in succession allowing the applicant before building subsequent buildings to experience the financial and/or other difficulties of owning a two-family house in this area.

(n) The applicant's appraiser was unable to estimate a value for the buildings at any time prior to the present.

(o) A letter of opposition was received from the NYC Office of Water Supply and Land.

(p) A second letter of objection was received from a neighbor.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law in this matter:

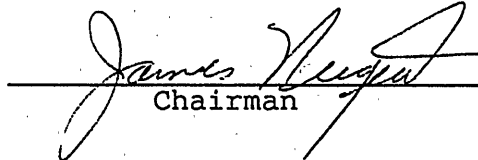
1. The applicant did not show that he cannot realize a reasonable return; the alleged hardship has been self-created in that the applicant applied for and received permission to build two-family homes and that he knew at the time he physically converted them to four-family homes that he was doing so illegally.

NOW THEREFORE BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor DENY the request for use variances to permit three four-family residences in an R-3 zone as applied for and in accordance with plans are on file with the Building Inspector.

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: January 08, 1996.


Chairman

(ZBA DISK#13-122895.PB1)

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

95-40

Date: July 10, 1995

I. Applicant Information:

- (a) PIERRE BELLE, 2 Belle Court, New Windsor New York 12553 (914) 564-4485
(Name, address and phone of Applicant) (Owner)
- (b) N/A
(Name, address and phone of purchaser or lessee)
- (c) J. TAD SEAMAN, 542 Union Avenue, New Windsor, NY 12553 (914) 565-5200
(Name, address and phone of attorney)
- (d) N/A
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- ☒ Use Variance ☐ Sign Variance
☐ Area Variance ☐ Interpretation

III. Property Information:

- (a) R-3 Belle Court, New Windsor, NY 32-2-12.22 250X174X IR
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? R1, R2, NC
- (c) Is a pending sale or lease subject to ZBA approval of this application? NO
- (d) When was property purchased by present owner? _____
- (e) Has property been subdivided previously? YES
- (f) Has property been subject of variance previously? NO
If so, when? _____
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? YES
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: NO
- _____

IV. Use Variance.

- (a) Use Variance requested from New Windsor Zoning Local Law, Section 48-12, Table of BULK Regs., Col. A, to allow:
(Describe proposal) FOUR (4) FAMILY UNITS IN R-3 ZONE
- _____

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

Building was constructed as approved two (2) family unit. Operating expenses and taxes were greater than income. Owner constructed two (2) identical units in basement level of dwelling and income now equals or exceeds expenses. Unit is presently constructed and occupied. The use is consistent with the neighborhood.
The properties bordering the subject parcel are Silver Stream Trailer Park and the NYC Aqueduct
Requiring the owner to revert to two (2) family use will cause the owner to have a negative cash flow and therefore lose the unit

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes No X.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. Area variance: N/A

(a) Area variance requested from New Windsor Zoning Local Law, Section , Table of Regs., Col. .

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area <u> </u>	<u> </u>	<u> </u>
Min. Lot Width <u> </u>	<u> </u>	<u> </u>
Reqd. Front Yd. <u> </u>	<u> </u>	<u> </u>
 Reqd. Side Yd. <u> </u>	<u> </u>	<u> </u>
Reqd. Rear Yd. <u> </u>	<u> </u>	<u> </u>
Reqd. Street Frontage* <u> </u>	<u> </u>	<u> </u>
Max. Bldg. Hgt. <u> </u>	<u> </u>	<u> </u>
 Min. Floor Area* <u> </u>	<u> </u>	<u> </u>
Dev. Coverage* <u> </u> %	<u> </u> %	<u> </u> %
Floor Area Ratio** <u> </u>	<u> </u>	<u> </u>
Parking Area <u> </u>	<u> </u>	<u> </u>

* Residential Districts only

** No-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

The unit has been in existence for many years.

(You may attach additional paperwork if more space is needed)

VI. Sign Variance: N/A

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____
	_____	_____	_____

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation. N/A

(a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

(b) Describe in detail the proposal before the Board:

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

(b) Variance: Granted (____) Denied (____)

(c) Restrictions or conditions: _____

_____.

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC
HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF
APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

10/23/95 Public Hearing - Belle, Pierre #95-40, 41 & 42

Name:	Address:
Frederick Petro	172 Moore Hill Rd.
Wm. Sarvis	167 " " "
Janice Plante	129 MT. AIRY RD
THOMAS KARNAVEZOS	132 MT AIRY RD
PETER A KARNAVEZOS	124 MT AIRY RD

Date 12/25/95, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Francis R. 147 Syracuse Dr DR.
New Windsor NY 12553

DATE			CLAIMED	ALLOWED
12/23/95		Zoning Board Meeting	75.00	
		Misc - 2		
		Cilani - 11		
		McCarville - 3		
		Thomas - 3		
		Mylonas - 3		
		Francan - 9		
		Belle - 22	99.00	
		Dubetsky - 8	33.00 each file	
			#95-42	
			274.50	
			349.50	

BELLE, PIERRE

MR. NUGENT: Request for use variances to permit three existing four-family residences in an R-3 zone located on Belle Court. Use is not permitted.

Tad Seaman, Esq. appeared before the board for this proposal.

MR. NUGENT: Basically like what we're dealing with is three lots.

MR. TORLEY: It's the same problem in each case, is it not?

MR. NUGENT: Yes, exactly.

MR. TORLEY: I would suggest we take them in a block.

MR. KRIEGER: It's a twofold inquiry, you can take all the evidence at the same time and have a joint hearing and then elect to have three votes or one vote depending on what you want to do but you don't have to decide now if you want to have three votes or not. How many names do we have on the list?

MS. BANHART: We have 1, 2, 3, 4, 5.

MR. KRIEGER: Five names, five spectators, thank you.

MR. SEAMAN: Mr. Chairman, I'd like to hand up a short environmental assessment form for each of the three lots that are before the board at this time.

MR. KRIEGER: We're going to put it in the record that before making a deliberation, each member of the board has reviewed the short environmental assessment form and asked any questions that any member may have with respect to the environmental impact that you have all looked at the form, right?

MR. TORLEY: That is the first time I have seen it so--

MR. KRIEGER: The record should reflect that you have reviewed it and if you find that information sufficient

say so. Otherwise, ask whatever questions you deem appropriate.

MR. SEAMAN: I have given to each one of you or put out four of the original subdivision maps that was approved by the town back in, well, 1986 or '87, but nothing has changed on that in that respect but I just put it in for information purposes only. To just briefly review the permitted uses in the area, there are 13 in number, what I would like to do is to rather than go over each one of them, eliminate the ones that may be permitted by the code but aren't permitted because of the land size. These parcels are all in around the acre size, lot one is not really in question tonight, lot 2, 3 and 4 are the three that are in question. Lot one is Mr. Belle's personal house. But I can see that lot 2 is slightly under an acre, 3 is substantially under an acre, lot 4 is quite a bit over an acre. But items number one through, permitted uses numbers one through five in the code all have a requirement of five acres so they were not going to be applicable to this anyway. We can't use that. Number 6, for place of worship is a 3 acre minimum, so we can't use that either. Public schools are on 15 acres so we can't use that. So what we're dealing with is basically the one and two-family houses. Number 8 is one for a single-family house with no water and no sewer. However, this has sewer and new one-family house would have to hook into the sewer so that is basically into the same classification as you have right here. So number 9 is one that is authorized in the zone. Ten being the single-family house with water and with sewer, this area doesn't have water so that is out. Number 11 is two-family dwelling with water and with sewer, again no water in the area so that is out. Number 12 is the one that was the original approval for this subdivision was granted a two-family dwelling without water but with sewer, so that one is still a viable alternative. The last one without water and without sewer again is not going to be considered because it does have sewer service and this would have to hook up into the sewer so it would be the same classification as number 12. So we have two uses that we have to examine, one is the single-family dwelling and one is the two-family dwelling. Existing and approved at the present time is

a two-family dwelling. Our variances we're seeking to raise that to a four family, each of those parcels, those three parcels into four-family dwelling. We aren't considering single-family dwelling for two reasons, one is the two family is already in existence and the premises and has been there for a substantial period and number two, the highest and best use for the property is a two-family dwelling located with the public sewer system. So from there, I think we can go to the next step and that is, I would like to ask Richard Sluszk, who is a New York State certified appraiser, real estate appraiser, to do a financial analysis of the finances concerning the particular two-family structure. And what we have to do for this presentation, even though it has been used as a four-family structure is about three years now and has been taxed that way as mentioned last month, Mr. Belle came to a point in his life where he found that he was not able to meet expenses with the two-family structure. That is what caused him to go to the four family so as to try to solve his problem that he had. This analysis is being done at that time at the time that he had two apartments in it and I want to turn it over to Mr. Sluszk so he can review that with you so but when you say it's referring to two apartments, that is the reason why, even though it's four right at the present time.

MR. SLUSZKA: What I did with this was I looked at this property as of 1993 when all three houses were already existing on the premises there. And I looked at it in terms of two apartments with the first house which was the older house, I believe built in 1987, commanding \$700.00 a month rent, the next house which was built I believe a little later, 1989 at 750 a month and the last house built between 1991 and 1992 commanding \$800.00 a month, times two apartments, times 12 months gives you your annual income. I took out a five percent vacancy allowance which would allow for vacant apartments, which is typical for the area at that time, coming up with a total affected gross income annually of \$51,903. Looking at rental expenses for that year, we had total taxes of \$17,462 that is on all three properties.

MR. LANGANKE: Based on two family?

MR. SLUSZKA: Right, based on two families. Insurance, basically these numbers here, the other expenses were either taken from Mr. Belle's actual expenses or were taken as typical expenses for those types of properties, insurance at \$4,400, a sewer bill of \$1,600, snow removal of \$1,000, road maintenance of \$2,500. Now one comment on these items here on the road maintenance and snow removal, Mr. Belle received some estimates from some of local landscapers for sums a lot higher than that and I took basically typical expenses, management of, I'm sorry, repairs and maintenance, this is on all three properties of \$9,500, management \$5,000, which is basically about ten percent of gross, utilities, which would cover basically any vacant apartments for heat and electricity and so on, \$500 for the year, office expenses of \$1,500, legal fees of \$1,400 which would cover basically leases and any termination of tenants that would have to take place and reserves for replacements. Basically, when you're looking at income properties, you look at reserves for replacements to cover expenses of replacing items such as this, in this case replace appliances such as refrigerators, ranges, dishwashers, carpeting, furnaces, the roof and so on and what you do with this is you look at the estimated life of these components and you sit there and you take what it would cost to replace them and you set aside money each year to replace these things. All right, so we have for the three houses a total of \$10,500 as reserve for replacement with a total expenses of \$55,362 or total loss of \$4,062. Now normally, when you're doing an appraisal, you normally come up with net operated income. And that is what you try and base your market value on, you would take your net operating income and you'd capitalize it and you'd get a value. Now, if you have a loss, you can't capitalize the loss, that is not net operating income. So we're looking at this basically in terms of an appraisal of this property which would have no value as a two-family dwelling because you have a loss each year. There is no net operating income. Anyone have any questions or something I can explain a little further?

MR. TORLEY: Well, one question. So therefore, according to this and this year, this timeframe, Mr. Belle was running a net loss?

MR. SLUSZKA: Assuming these are two-family houses, yes.

MR. TORLEY: Which they were at the time.

MR. SLUSZKA: I don't believe so, were they?

MR. SEAMAN: At the time, yes, they were.

MR. KANE: Question. Those homes managed and maintained by Mr. Belle or by a private company?

MR. SLUSZKA: All managed and maintained by Mr. Belle.

MR. TORLEY: So he is charging himself?

MR. SLUSZKA: These are typical expenses to a builder, no matter who does it, whether the owner does it or whether you have to go out and hire somebody to do it, these are typical expenses for a rental property.

MR. TORLEY: Refresh my memory on the construction time of the houses, when were each one built?

MR. SLUSZKA: I believe one was built in 1987.

MR. BELLE: '87, '89 and '91 are the three timeframes.

MR. TORLEY: I have a question for Mike. The zoning code, when was it changed to forbid multi-family dwellings on a private road? My code says May of '89. Now if a previously approved site plan was in existence is that grandfathered?

MR. BABCOCK: I think you need to read that section of the code. It doesn't say that you can't build a two-family house on a private road.

MR. TORLEY: Private road shall be for single family use, shall be approved for single family use.

MR. BABCOCK: I don't have my code with me.

MR. TORLEY: It's section, it's page 6010.

MR. BABCOCK: How does it read?

MR. TORLEY: If you have an approved site plan.

MR. BABCOCK: Who how does that read again?

MR. TORLEY: It's section private road.

MR. KRIEGER: 9C.

MR. TORLEY: The private road shall only be proposed for approval to serve lots for single family use.

MR. BABCOCK: That is proposed. If somebody comes in and proposes a private road, you cannot build two-family houses on it but if you have an existing private road, you can build a two-family house on it. That is proposed private road.

MR. KRIEGER: I believe the statute was written that way so it would prohibit prospectively in the future anybody from doing that, putting multi-family houses on a private road. But you're not penalized if you already have done so.

MR. TORLEY: Had an approved site plan.

MR. BABCOCK: We just went through this whole scenario on Riley Road, that it was proposed and not existing and basically they told them to go build the road and then it would be existing and then you won't have that problem.

MR. KRIEGER: As I understand this particular application, the question is actually somewhat more complicated than that as it was proposed and approved by the planning board, it called for a, not a private road, but a public hearing and the only reason that it does not today exist as a public road is that it has not been accepted by the town highway superintendent on grounds not of its construction but of its layout.

MR. BABCOCK: That is correct.

MR. KRIEGER: So, it puts the applicant squarely in the middle, I think the applicant has done all that he can do to comply with the statutes and when the layout of the road was approved so you can't or one cannot penalize the applicant for the failure of the town to accept the road since it was through no act of the applicant. And he apparently has done everything that was within his power to do.

MR. BABCOCK: The highway superintendent took the position that any road that was not a benefit to the town, such as dead-end cul-de-sac road, he was not going to accept the dedication to include that one of Washington Green at the same time.

MR. KRIEGER: He took that position without the approval or participation of no officials from the planning board, building department or the town board but--

MR. BABCOCK: But it also would require his signature and he said he wouldn't sign them.

MR. NUGENT: This road is built to town specs?

MR. BABCOCK: Yes.

MR. SEAMAN: You might note on note number 9, the road is dedicated actually it's an irrevocable dedication so at any time that the town does want to accept it, it is offered as to the, maybe whether it might have to be something else done and on it at that time that is up to the highway superintendent.

MR. BABCOCK: Let me correct my statement, you asked me if it met town road specs, I said yes, as far as the construction of it, except for the top course of blacktop, there is no blacktop on this road, so if it was to be turned over to the town, it would have to be blacktopped.

MR. TORLEY: And the site plan was for two-family

dwelling even though the proposed house says house, not two family?

MR. SEAMAN: On lot number one.

MR. TORLEY: Well, it says proposed house, proposed house, proposed house.

MR. SEAMAN: Those three are the ones that are in question.

MR. TORLEY: Just says proposed house, not proposed two-family house.

MR. SEAMAN: That is what it says, that is correct.

MR. TORLEY: So just where was it stated that this was approved for two-family houses?

MR. BABCOCK: Well, it doesn't have to state it, if the lot area meets it and somebody comes in and it's in a two family zone, the lot area meets it, the setbacks are met, you get a building permit.

MR. LANGANKE: I mean the map could have said proposed building.

MR. KRIEGER: I might add for background, the planning board, they often require the location of a proposed house not to bind the applicant in any way but simply to demonstrate that it is possible.

MR. SEAMAN: You would want to note that this was done under R-4A zone which two families at that time 25,000.

MR. NUGENT: What you just said they were built under a different zone?

MR. SEAMAN: Yeah, the R-4A zone.

MR. BABCOCK: Yeah.

MR. BABCOCK: They, yeah, this was R-4A when they did the zoning change from the columns and bulk tables to use all bulk tables, it became an R-3 zone.

MR. NUGENT: That was only 25,000 at that time?

MR. BABCOCK: I don't have those numbers again with me.

MR. SEAMAN: Mr. Chairman, here's a copy of the section of it, if you look under this section right there.

MR. NUGENT: Yes, 25,000 and they are well over that.

MR. SEAMAN: They are double it. Questions on the financial?

MR. NUGENT: No, sir. One question that I had which brought up the rental numbers for all intents and purposes they are the going rate at the time and probably still today because it hasn't changed all that much.

MR. SLUSZKA: Exactly.

MR. NUGENT: Really couldn't be raised.

MR. SLUSZKA: At this point, you're looking at real estate, it's value basically and being in its location when you're behind a mobile home park like this location, these properties here, you're not going to get too much rental for it.

MR. NUGENT: Plus the fact that to my knowledge, rentals in this area, that is about average.

MR. SLUSZKA: Basically stabilized, right, that is what you're going to get.

MR. SEAMAN: If I might--

MR. TORLEY: One question. So what you're saying as built and improved, as the owner asked for permission to build as two-family houses when he built them and put them up, he was going to run a loss?

MR. SLUSZKA: Exactly.

MR. SEAMAN: It started to run at a loss, he didn't

expect to, I think he expected better rentals, except that the people weren't willing to pay the rentals that he was expecting to get out. And also, as far as the taxes and some of the other expenses that were, that he was incurring, it just was not making it. You notice one of the things that is absent from here is the issue of profit. We have to look at this not as Pete Belle running this operation cause Pete Belle does go out there, he mows the lawn by himself, he plows the driveway by himself, like the rest of us would do. What happened if Pete Belle died and Pete Belle's wife took over this operation, she's not going to go out and run a bulldozer. We have to look at these figures what would, the non-participating owner can be expected to expend during the course of a year in order to maintain these properties and those are the figures that Rick is really coming up with.

MR. TORLEY: So, in other words, he built these structures legally according to the standards of the time, and found that having built them legally, he wasn't making money?

MR. SEAMAN: That is right, it wasn't keeping pace.

MR. TORLEY: Why is that our problem?

MR. SEAMAN: Why is that your problem?

MR. TORLEY: It doesn't say every time you undertake a project, you're going to be guaranteed a profit.

MR. SEAMAN: That is correct but there was a hardship and the hardship was as Rick was pointing out is that there's a mobile home park on one side, an aqueduct on the other, leaves this as a pinned in barrier piece of barren land.

MR. TORLEY: Was this a surprise to the applicant?

MR. SEAMAN: It was a surprise when he started getting people saying I'm not going to rent that house for that amount of money sitting in back of this mobile home park and also I can't walk across that property without being arrested for trespassing on New York City

aqueduct, there's one way out, I can wake walk out my driveway.

MR. TORLEY: But these were features of the property that were known to the applicant when he started.

MR. SEAMAN: Either known or should have been know, I could admit that, yes, with research, certainly he did not research. The issue of the mobile home park as to all of the ins and outs of New York City will demand as far as that aqueduct is concerned and what is going to happen to the aqueduct and the mopeds and motorcycles and all-terrain vehicles going up and down this thing with the mufflers off the things, was he going to anticipate that, I don't know. Maybe the reasonable and prudent man would understand that on the aqueduct it's going to sound like a race track at times. But people that are renting houses, especially big houses like that you're talking about 2,000 feet of an apartment, they are not going to listen to all-terraine vehicles racing up the back fields and pay that amount of money.

MR. WILLIAM SAVIS: Were all these houses built at one time?

MR. SEAMAN: No.

MR. NUGENT: You'll have your time, sir, I'll open it up to the public in a minute.

MR. SEAMAN: Let me just briefly go on with the other 267B provisions. Rick has talked about the financial end of it which is the part number one, and number two is identifying the hardship relating to the property being unique and not applying to a substantial portion of the district or the neighborhood. As we have just mentioned, this land is located between a mobile home park and the New York City aqueduct. It is the only piece of property in that R-3 zone that is so located. It does become a unique situation with that land and creates a hardship. As I just pointed out, on one side you do have the mobile home park which is not the most desirable situation to have adjacent to your property and certainly, some tenants don't particularly care to

look out to a mobile home park, others could care less about it. But there are many that are, especially the high end renters, who don't want to look out to a mobile home park on the other side with the New York City aqueduct, you can't walk on it, you can't use the land for any type of recreational use, you cannot cross it. If there's neighbors on the other side of the aqueduct, you can't cross it without being possibly being arrested for trespassing on the lands of the City of New York. It also has some disadvantages in that there are kids and sometimes adults that are using all-terrain vehicles, motorcycles, dirt bikes and generally noisy type vehicles that are going up and down the aqueduct periodically. The aqueduct property can't be used for any type of construction, you can't use it for even putting a shed on it or anything of that nature, not that you should do it on anybody else's property but it's, the point I'm trying to bring out is it's just neutered property, it's there and it can't be used for anything and never will be used for anything. Another unique situation with the property as we find it tonight is the fact that there are structures on each of the three lots in question. Lots 2, 3 and 4 and when we're examining the property, we have to consider those structures and what could be done with those particular structures. But this is the only property in the neighborhood and I think it's the only property in the whole R-3 zone out there that does have this fenced in problem of having the aqueduct on one side and mobile home park on the other. The next item as to whether this variance will alter the essential character of the neighborhood, the use is now residential. It has been residential since it was the units were originally constructed as two family and when we they were enlarged to four-family houses, they have been used for residential. And in the future they are going to be used for residential. The addition of six apartments being two additional apartments in each of the three dwellings certainly will not have any type of an impact on either the utilities, the streets or the density in the, particular density of people in the particular area. The present neighborhood has one high density area, namely the mobile home park and does have a commercial use which both are existing in the R-3 zone as pre-existing, non-conforming uses. They are

going to stay but they are one of the few pieces of property that are being used for other than residential purposes, so the use of the property is going to be totally consistent with the character of the neighborhood right in that immediate area. The other item is as to whether the hardship is self-created. If one takes a quick look at the thing, they are going to say gee, Mr. Belle built the two apartments down there, obviously self-created. Let's take a closer examination of that situation. That is not quite the case. Where was the problem? The hardship was noticed when those red numbers at the bottom, this loss started appearing, what was the hardship, the hardship was the location of the property. The fact that he couldn't get anymore rents because of the mobile home park, because of the aqueduct, because of the noise, because of the problems that are associated with that particular property. What was the resolution of that hardship? The resolution of the hardship was to increase revenue. Very difficult to decrease the expenses, especially when the expenses are such things as the real property taxes, insurance, and some of the other things that we've seen. Certainly, snow removal some years it's great, we don't have any snow but we have a year like '93 where you never get out of it, very difficult to reduce rental spaces, as we all know with operating our own home, only way of doing it is increased revenues. This was a way of increasing the revenue of eliminating that particular problem as far as the situation which Mr. Belle was concerned. But it wasn't the construction of those units, was not the hardship, and that is not the hardship we're addressing. We're addressing the land hardship and we're talking about a remedy and that was, the construction was the remedy. The additional revenue saved the buildings from being lost and also probably saved Mr. Belle and his entire financial structure because he was heading towards a bankruptcy type situation. The construction of the additional apartments was apparently the only remedy to the hardship since one, the location of the units cannot be changed, it would be very difficult to move those houses. The mobile home park will probably not go away. The New York City aqueduct will probably not go away. And the expenses will probably not go down. So

there's only one other thing to do and that is to raise revenue. This is why we're asking now to grant a variance to allow for these three units that are now the three properties that are before the board that each have two apartments or two family homes to be increased to four-family homes, the way they are now, the way they have been for several years and so that we can proceed with the situation as it is right now and that is not operating at a loss.

MR. TORLEY: One question. These building are not all put up at the same time?

MR. SEAMAN: No, they weren't.

MR. TORLEY: Over some years?

MR. SEAMAN: That is correct.

MR. TORLEY: When he built the first building, he must of seen whatever the cash flow and profits would be like and he built the second building and a third building?

MR. SEAMAN: Right.

MR. TORLEY: Why isn't that self-created? If you know you're running a loss on building one, well, I'll put up two more building and run a bigger loss?

MR. SEAMAN: We all looked at the crash of '87 and we all looked at it as coming off good times, we're going into a little dip and coming out of it but we have been coming out of it now we're in our eighth year of coming out of this recession. I don't know whether we're coming out of it now but I think during those early, during the late '88, '89, 90 period I think we're all looking at we're going to be coming out of this thing, it just never happened. He got caught in the trap. He built the units. He lived with them. He took a loss with them and I think that that was, I think it turned out to be an unfortunate investment at that time. Had he had a crystal ball with him, he might not have done it but many of us fell into that same trap with our investments.

MR. KANE: Question for the appraiser. What would the approximate selling price be of those buildings at that point in time in your opinion?

MR. SLUSZKA: Without doing an appraisal, all right, I really couldn't give you a number on it. You're looking at it now in terms of if you look at the properties in terms of two-family houses, where they are at basically now, they have four apartments in them now, could you say yes, you could have an owner occupied and then someone renting out the other apartment or something like that, look at it in terms of an investment, since Mr. Belle was not doing that. He has his own residence on one of the lots here, and basically from I believe using these other three houses as investments, you're looking at something that is at this point operating at a loss.

MR. KANE: I understand that completely. I'm looking at reasonable return for his investments. At a certain point, investments, you know, you either cash in or get out or continue to go on. I'm looking at other options that he might have as we need to do when we're looking at reasonable return. It's a very, very tough question so I'd like to cover that base. What, if it's possible, what would be his return if he had to turn around and sell those three properties and what it actually cost him to build it?

MR. NUGENT: As two family?

MR. KANE: As two family.

MR. LANGANKE: Mike, would you buy one of those houses?

MR. TORLEY: That is not the question. The question is what would be the market value as a two-family house?

MR. SLUSZKA: Without doing an appraisal, I couldn't give you, I can't give you an estimate of what the value would be without going in and doing a research and inspecting the homes and looking at the comparable sales in the area and so on.

MR. KANE: Very fair answer.

MR. SLUSZKA: Which is something that I can do. Basically, what I did is an income approach. What you're asking me to do is a market approach. Yeah, I maybe could find some sales of two-family homes and make some comparisons but one of the things I'd be looking at would be location and I'm not looking at--also, I'd be looking at what type of rental, especially if I am looking at two family, I'm going to be looking at the gross rental multiplier and I'm looking at how much rent do you get. And when I look at properties perhaps in other areas of the town where you can get \$800, \$850, I have even seen listings for places over \$1,000, you know, you're looking at a place that does not have the problems that his properties have where you can only get 700, 750, 800 a month.

MR. KANE: Okay.

MR. NUGENT: Any further questions by the board? At this time, I'd like to open it up to the public. State your name and your address so the steno can get it and try not to be repetitious.

MR. WILLIAM SARVIS: William Sarvis and I live at 167 Moores Hill Road. And my question is you indicated that there's a hardship involved here?

MR. SEAMAN: Yes.

MR. SARVIS: could you indicate where the interest expense is there or is there any bank involvement or didn't he need a loan or--

MR. SEAMAN: Right now, there is no mortgage on them.

MR. SARVIS: As it progressed?

MR. SEAMAN: As it progressed. I don't have any interest figures on it as it progressed but are you talking about interest on mortgages? You're talking interest on something that he purchased to install?

MR. SARVIS: Does he have a loan or does he have

assistance with this?

MR. SEAMAN: That I don't think that there is any mortgage on it at this particular time. I don't think there is. The appraiser was just pointing out that is not, it wouldn't appear on this because it's not an expense item.

MR. SARVIS: It's not a rental expense?

MR. SLUSZKA: No, it's not an expense to the property, it's an expense to you, personally, but it's not an expense to the property.

MR. SEAMAN: That is as to valuing the property, not as income tax. Income tax it's deductible but to the value of the property then that is what he is trying to do now is to take what does it cost to operate, to operate this property and we don't care whether you had the money or you borrowed the money or somebody gave you have the money. That is not a factor as to taking that approach, that that appraisal type of approach that was taken by Mr. Sluszka.

MR. NUGENT: Anyone else? Hearing no further questions from the audience, I'll close the public hearing and open it back up to the board. At this time, I have two letters I'd like to read tonight, actually, I have four letters but I think three of them are kind of repetitious.

MR. KRIEGER: They are identical except they apply to each of the three parcels.

MR. NUGENT: First one is from the manager from the Office of Water Supply and Land, New York City. This is in response to an application by Piere Belle for zoning variances which would allow retention of three recently converted four-family dwellings in an R-3 zone. Be advised this this department opposes the granting of the variances which would allow non-conformance with existing town zoning regulations. We're especially concerned since the Catskill Aqueduct is located directly adjacent to the southern side of tax lots 12.22 through 12.24. Before the board's final

decision, we'd appreciate it if the town required the applicant to erect a substantial fence in conformance with the town building code along the City's property line separating tax lots 12.22 through 12.24 from city land and thereby preventing trespass encroachment and dumping on the Catskill Aqueduct property. Please be guided accordingly. Very truly yours, Marilyn Shanahan, manager, Office of Water Supply Lands.

Second one is a lot longer. I will be unable to attend the hearing for subject property scheduled for 23 October '95. I would, however, like to request that this application be denied. The proposal to develop four-family dwelling unit in the R-3 zone is not only inconsistent with the R-4 zoning requirements only allowing two-family dwelling units but the proposal for four-family multiple dwelling unit is not in character with the neighborhood consisting primarily of single family residential homes. The application to the ZBA for a variance to permit the four-family dwelling unit is deficient. The application does not also request a variance as result of expanding a previously non-conforming use with respect to lot area. I would further like to point out that the R-3 zone for a two-family dwelling requires a lot area of 65,340 square feet. The lot area for tax lot 12.22 equals only 54,000 square feet. The conversion to two-family dwelling unit to four-family dwelling unit should therefore require an additional variance in light of the expansion of a non-confirming use for lot area. In addition to the above, upon review of the building department file, I found that each of the two-family dwelling units are served by individual sewage pumps and a small diameter 1 1/4" sewer. The size of the sewage pump station and the forced main in the street may not be adequate to serve the twelve dwelling units proposed along Belle Court. In summary, the original zoning of Belle Court area was for single-family homes. The town board in 1996 amended the zoning to an R-3 zone which allowed two-family dwelling units with central sewers on large lots. A variance to allow three separate two-family dwelling units to be converted to four-family dwelling units on a substandard size lots is clearly in violation of the ordinance and should not be allowed. Further in support of my request for denial, the Zoning Board

should require that the applicant clearly demonstrate the hardships that is resulting from the present use of the property as two-family dwelling units and why it is necessary to convert the dwelling units to four-family multiple dwellings units. Thank you for your positive consideration of my request, Carol A. Owen.

MR. LANGANKE: Is Carol Owen a neighbor?

MR. NUGENT: I don't know that.

MS. BARNHART: She was on the list within 500 feet.

MR. LANGANKE: Did we have some photographs of the houses?

MR. NUGENT: Yes.

MR. LANGANKE: Are there any other financial matters you want to put on the record?

MR. SEAMAN: Well, just some of the supporting data for those numbers, some of them as Mr. Sluszkha has pointed out, they are estimated from normal real estate practices but we have a, we have a couple of sewer bills and we have a bill for insurance and a proposal from Flanagan Landscape, proposal for cleaning and maintaining the yard, spring clean and thatch and pruning in the spring, fertilizing the lawn, lawn mowing, weeding, mulching beds, fall cleanup, snow removal and that was for \$8,075 per year. This one that is on here was for maintenance and repair for the total of \$9,500. This is \$8,000 just for the lawns and gardens. The insurance 5,044 from CNA, the sewer bills appear to be 57.80 per quarter per unit, that would be I guess times three and Nannini and Callahan for maintaining the road, which is done annually, the long road going in there, leading up to the houses is \$3,000 and then plus tax a year. And that road maintenance that is 2,500 that was knocked down a little bit and of course you just heard that the repair and maintenance with \$8.075 for just doing the lawn, repair and maintenance, that doesn't even talk about the house and the items that have to be repaired in there when a tenant leaves.

MR. TORLEY: Tad, is it your position then that in 1989 if I bought a two-family house, I'm going to live in half of it and rent out the other half for maintenance and I find geez, this isn't making me any money I'm losing money so I should have the right to say I'm going to cut the other side up into two more apartments, even though I'm not permitted to do so? So, if I am losing money, I'm entitled to violate the zoning code?

MR. SEAMAN: No, you're not entitled to violate the zoning code.

MR. TORLEY: That is what the gentleman did.

MR. SEAMAN: He's aware of this fact now that he violated the zoning code so to answer your question, no, you can't violate the zoning code for that, you cannot. But you can take some sort of steps to try to protect your investment and one of those steps is exactly what we're doing right now and that is come back and ask for a variance from the zoning code so as to increase it from two to four. Quite frankly, it's been there for three years. It certainly isn't anything that is now going to be an unknown. We know that the property works very effectively with it as a four-family zone. As far as I know, there have not been any complaints to the police, to the highway department, to the building department, to the zoning department or any other department, any other department in the town because of this and it's been going now for three years.

MR. TORLEY: Just happens to be illegal.

MR. SEAMAN: It is illegal, that is absolutely correct and that is exactly why we're here today to try to get that inaccuracy straightened out but we can't, I can't back it up, the only thing is I'm here in '95 I'm not here in '93 or '92 or '91. As we have discussed last month, the units were converted, Mr. Belle did not get the required building permit to do it, the assessor changed it to a 411 classification which would be four family classification and taxed him that way and he's

been living according to, living and operating his four-family rental units but you're absolutely right, it was, he wasn't doing it legally, that is why we want to try to come in and get that matter straightened out, that is why we're here tonight.

MR. NUGENT: If I understand you correctly, he's been paying taxes on four-family for three years?

MR. SEAMAN: Yes.

MR. TORLEY: Don't they talk to you?

MR. BABCOCK: No.

MR. TORLEY: This didn't tweak anybody's curiosity, there is a four-family apartment out there?

MR. BABCOCK: Not in the assessor's office.

MR. TORLEY: Maybe, have you had a meeting with the assessor's office, what's legal, what's not?

MR. BABCOCK: No.

MR. SEAMAN: Is your last house up on lot number 12.24 the one all the way at the end, is that four family also?

MR. BELLE: Yes.

MR. SEAMAN: This is still assessed for a two family and this is the road and of course here's the, this is the '92-93 school, the '93-92 schools came out in September but they were set in March of 1992 and that is 411 and 411 and this is the same 420 and the same 311 classifications.

MS. BARNHART: You're not submitting these bills for our file, are you?

MR. SEAMAN: No, I'm just showing them.

MR. NUGENT: Any further questions? All right, motion is in order.

October 23, 1995

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MR. REIS: Accept a motion?

MR. NUGENT: Yes, I would.

MR. REIS: I make a motion that we grant the variance for Mr. Belle for a four family on the three units.

MR. KANE: Second it.

ROLL CALL

MR. KANE	NO
MR. TORLEY	NO
MR. LANGANKE	AYE
MR. REIS	AYE
MR. NUGENT	NO

MS. BARNHART: Motion is denied.

Date 12/2/95, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 147 Syracuse Drive DR.
New Windsor, NY 12553

DATE			CLAIMED	ALLOWED
9/11/95		Zoning Board Meeting	75.00	
		Misc - 2		
		Sawino - 4 - \$18.00		
		Hinkson - 9 40.50.		
		Spies - 4 18.00		
		Lianusa - 3 13.50.		
		Belle - 11 49.50		
		Rhodes - 13 58.50.		
		Greer - 17 76.50		
		Perez - 2 9.00	292.50	
		65 Pgs		
			367.50	

BELLE, PIERRE

J. Tad Seaman, Esq. and Mr. Pierre Belle appeared before the board for this proposal.

MR. NUGENT: Request for use variance to permit three existing four-family residences in an R-3 zone located on Belle Court. Uses not permitted.

MR. SEAMAN: I'm Tad Seaman. This is Pierre Belle. Mr. Belle constructed three two-family houses on Belle Court, which is about a quarter mile in on Mt. Airy Road, goes in off of Mt. Airy Road. The two family units were built with the benefit of a building permit and got a Certificate of Occupancy after they were completed. The three homes are located on Belle Court, which is between the New York City aqueduct and Silver Stream trailer park. After the houses were built, which incidentally are on public sewer and they are serviced by private wells, after they were built, there was a problem with the economy slipping away, increase in expenses, the vacancy was rather high and also the nonpayment by the tenants was rather high. It was causing a financial difficulty and the financial difficulty was just not enough income to support the units. The buildings had been built so that they were two story structures. He had already had the blueprints for a plan for the two apartments that are on the top and the basement was empty at that time. So he proceeded to solve the problem of the lack of income by constructing two more apartments in each one of the units on the first floor using identical floor pattern as was upstairs. At that time, Mr. Belle was not aware of the fact that he had to get another building permit to do that work inside since he already had a building permit for this structure. This particular belief was reinforced because immediately after the construction was done, he was re-assessed and started paying taxes as a multi-family structure and has been paying those ever since up until the time, well, this was re-enforced and then up until the time that the zoning inspector made an inspection and told him that the four families were illegal without having a building permit, certificate of occupancy for the two additional apartments at which time brought us to here, what we're

talking about now is to have a public hearing to seek a variance to allow the four family structures for each one of these three houses which are on their individual lots where there's only two family structures allowed. It's in a R-3 zone so that is why we're here.

MR. NUGENT: First of all, who is the person that went down to look at the site?

MR. SEAMAN: John McDonald.

MR. NUGENT: For what reason?

MR. SEAMAN: I don't have any idea except I would assume that he has the job of inspecting all multiple family structures and they use the assessor's records for that purpose and this was listed as multi-family structure so I believe it was on the list of the inspections.

MR. NUGENT: When were the houses built?

MR. SEAMAN: Houses were built in the 80's.

MR. BELLE: Late 80's.

MR. LANGANKE: When were the additional apartments constructed?

MR. SEAMAN: In the late 80's, very early 90's.

MR. LANGANKE: When was the original two family constructed?

MR. BELLE: In the late 80's.

MR. LANGANKE: How much time expired before you added the additional apartments?

MR. SEAMAN: Two years, in that area someplace, one to two years.

MR. KRIEGER: You didn't change the footprint of the exterior appearance, just changed the interiors?

MR. SEAMAN: That is correct, they all stayed the same. As a matter of fact, the top unit is the exact same prints that were for the upstairs apartments, fit in exactly on the bottom without any structural changes whatsoever on the building.

MR. LANGANKE: When the original C.O. was granted, what did the inspector look at? I mean, did he go through empty apartments to the top and he inspected the top?

MR. SEAMAN: At the time that they were inspected for the certificate of occupancy on the application for two apartments in each unit, there was an empty first floor and you went up to the second floor, is that an accurate definition?

MR. BELLE: Yes.

MR. BABCOCK: Just like a house with a basement under it.

MR. NUGENT: There it was all above the ground?

MR. BABCOCK: Yes.

MR. TORLEY: Those weren't being used as garage space?

MR. BABCOCK: No, just the basement.

MR. TORLEY: Eight foot basement?

MR. BABCOCK: Some of them are two foot under.

MR. TORLEY: Do we have any building code regarding ceiling heights?

MR. BABCOCK: Yes, they are fine ceiling height.

MR. KRIEGER: No additional doors or exits were constructed when these apartments were added?

MR. SEAMAN: From the exterior.

MR. KRIEGER: Exterior doors entrances to the structures?

MR. BELLE: Yeah, there is.

MR. SEAMAN: Which ones?

MR. BELLE: Downstairs.

MR. SEAMAN: But looking at it from the outside.

MR. BELLE: No, you can't see anything.

MR. SEAMAN: You have to go into the existing front door and then go to another door to go to the other units.

MR. BELLE: You have to go to the rear.

MR. SEAMAN: That is the way you gain access to the downstairs units?

MR. BELLE: Yes.

MR. LANGANKE: Are these housing units perfectly acceptable, except for the fact that they are not permitted?

MR. BABCOCK: To my knowledge, yes.

MR. TORLEY: Do we have pictures?

MR. NUGENT: Here you go.

MR. SEAMAN: I believe those are all relatively current shots, yes.

MR. TORLEY: Question on one of these structures, this looks like to me what I would call a bi-level type structure, how is the ground floor the same footprint as the top? There's a foot overhang or so on each side.

MR. SEAMAN: Obviously, that is, it wouldn't be identical on that particular one, you're right.

MR. BABCOCK: It's smaller, two foot overhang.

MR. LANGANKE: And you have a municipal sewer and private wells?

MR. BELLE: Yes.

MR. SEAMAN: It's a private water system, the wells supply all the units.

MR. LANGANKE: What's the density of housing in this immediate area?

MR. SEAMAN: Well, the density is on one side nothing cause it's New York City aqueduct, on the other side is Silver Stream trailer park and I can't tell you what the density is there.

MR. TORLEY: How big are the lots?

MR. SEAMAN: The lots are--

MR. NUGENT: 250 by 173.

MR. SEAMAN: Well, they are--

MR. NUGENT: Just under 50,000.

MR. SEAMAN: There is an existing house facing Mt. Airy, 41,000, 31,000, 54,000.

MR. LANGANKE: This house is the old one there?

MR. SEAMAN: The first lot, the one on Mt. Airy was the one that was there when you did the subdivision, is that correct?

MR. BELLE: Yes.

MR. TORLEY: So they don't meet the lot area?

MR. SEAMAN: Well, at the time it was an R-4A.

MR. BABCOCK: Right, R-4A.

MR. BABCOCK: Zoning changed.

MR. SEAMAN: It did at that time but the zoning was changed.

MR. TORLEY: So I am trying to follow, when these structures were built, they are built and given C.O.s as two-family structures?

MR. BABCOCK: That is correct.

MR. TORLEY: What is your intention for the ground floor at this time?

MR. BELLE: Storage for the tenants.

MR. LANGANKE: What was allowed at that time before the zoning was changed?

MR. BABCOCK: Two family, it's still allowed. The only thing that changed was the size of the lots and it went from R-4 a which went with the bulk tables in the columns, then we went, just the bulk tables to an R-3.

MR. NUGENT: Two families are allowed in that zone with 65,000 because you have sewer, not water.

MR. KANE: You have been paying taxes for the--

MR. NUGENT: On a four family.

MR. BELLE: Yes.

MR. KANE: Since the late 1980's?

MR. BELLE: Yes.

MR. TORLEY: If you had, but you came in and had gotten a C.O. for a two-family house and you didn't think you needed any building permits to make that a four family house?

MR. BELLE: I didn't think so, just interior walls.

MR. TORLEY: But going from two apartments to four apartments, you didn't think you needed some kind of--

MR. LANGANKE: That is what he is saying. Have we had any negative comments about this, Mike, these uses that are there, you know, like any negative comments at all?

MR. BABCOCK: No, not at all.

MR. REIS: I'm familiar with the road there fellas and it's very rural, it's not, they are in no way obnoxious to any of the neighbors.

MR. TORLEY: Never know they are there.

MR. BABCOCK: Right, exactly.

MR. NUGENT: Certainly well maintained. Mike, do you think we should include area variances on this?

MR. BABCOCK: Well, Mr. Chairman, as we always have, the problem we always have what use group do we use to consider it? It's not permitted in that zone, that is why he needs a use variance. And the area variances, whatever use group you want to put him in, if you want to pick a use group, I'd be more than happy to write it up that way. I don't know which one you want to use, do you want to use R-3, two family?

MR. REIS: What would be the minimal?

MR. BABCOCK: Four family is not permitted, so there's no set of bulk tables, lot area, lot width required for that use, so which one do I use?

MR. TORLEY: We're R-4, how much area does he need?

MR. BABCOCK: R-4, he doesn't need any area.

MR. LANGANKE: Which is what it used to be.

MR. BABCOCK: R-4A is what it used to be.

MR. TORLEY: Permitting two families with smaller lots.

MR. LANGANKE: Couldn't we put a statement if the area variance was granted saying that the area was

considered and judged to be appropriate?

MR. BABCOCK: Right, if we want to list some.

MR. LANGANKE: So, down the line, somebody doesn't come along and say that an area variance is now needed.

MR. TORLEY: Make an interpretation at that point, I would just as soon put in the area variance from 65,340 and we don't--

MR. BABCOCK: You want me to use the complete list all the way across or just for lot area?

MR. TORLEY: Use it for all, make sure we get it covered, that is row 12 of the R-3 bulk tables.

MR. NUGENT: I don't know if you want to get involved, that is not really a question.

MR. KANE: He needs to prove a number of things before we can consider anything else.

MR. NUGENT: I don't think that is really--

MR. KRIEGER: I would suggest that you also ask for an interpretation, the question of where there is a matter of, whether there is a matter of fact these parcels or legally speaking a four family use or not, deserves to be looked at just because the building inspector and the inspector, whoever it may be, came to that conclusion doesn't mean that it is binding on this board.

MR. TORLEY: You mean make the conclusion whether they are four family units?

MR. KRIEGER: If in fact they are not four family but two family the use is permitted, no need for a variance.

MR. KANE: Basically to get that, you're looking for a common entranceway.

MR. KRIEGER: Well, I'm looking at the number of units

are distinguished according to the law but there is no one factor that determines whether it is in fact a four family use. The fact that there may be four families living in there is one factor, it's not necessarily determined. As we have been through before the number of kitchens aren't necessarily determinant, the number of electric services are factors to be taken into account, but no one of them determines by itself.

MR. LANGANKE: Who made this inspection determining that it was a four family unit?

MR. BABCOCK: John McDonald.

MR. TORLEY: But the applicant has said that they are four family units so.

MR. BABCOCK: Right.

MR. KRIEGER: Well, the applicant in saying so that doesn't constitute an admission that it is legally binding, it's for this board to determine whether it's four family, regardless of what he or John McDonald or anybody else thinks, it is the decision, is opinions anybody can have, decisions to be made here.

MR. REIS: How many meters do you have in each unit?

MR. NUGENT: Four, they are right on the side of the building.

MR. TORLEY: And you have previously basement now is apartments have separate entrances to the outside?

MR. BELLE: Yes.

MR. KRIEGER: Yes, but he didn't increase the number of entrances to the outside.

MR. SEAMAN: No, on those he said he did increase those when the units were put downstairs, you put an exterior entranceway in the back, is that correct?

MR. BELLE: Yes.

MR. SEAMAN: That is what he said through a wall, yes.

MR. KANE: Is that one outside entrance and then two inner doors to get to the separate apartments or are there two separate?

MR. BELLE: Separate.

MR. KANE: So there's three outside entrances to the units?

MR. NUGENT: Four.

MR. BELLE: One has three, one has two.

MR. BABCOCK: I think the question was does he need area variances from the R-3 bulk tables, item number 12 is what Larry's question is and does he need an area variance also with the use variance? Should he be applying for that or once you give him an area, once he tries to apply for a use variance, does he need an area variance for that cause there's no regulations for that in an R-3 zone.

MR. TORLEY: We have gone both ways in the past.

MR. KRIEGER: Once he's granted a use variance, if in fact he's granted a use variance, there's no need to apply for area variances after, that goes with the territory. If he were to if an applicant were to receive a use variance and later seek to expand that use, that is a different matter. But for the use as it exists at the time a variance is granted, he doesn't need any areas variance in addition.

MR. KANE: So if grant the use, that would cover that?

MR. KRIEGER: Correct.

MR. NUGENT: Any further questions?

MR. KANE: Not at this time.

MR. NUGENT: I'll accept a motion.

September 11, 1995

32

MR. REIS: Make a motion we set up Mr. Belle for public hearing on his request for three, four-family residences.

MR. KANE: Second the motion.

ROLL CALL

MR. KANE	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE
MR. REIS	AYE

MR. KRIEGER: I'm sure you are familiar with it, those are the criteria set forth by the state law which you have to meet.

PROJECT I.D. NUMBER

§17.21

SEQR

Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM For UNLISTED ACTIONS Only

PART I—PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT /SPONSOR PIERRE BELLE		2. PROJECT NAME N/A	
3. PROJECT LOCATION: Municipality NEW WINDSOR County ORANGE			
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) BELLE COURT, 300 feet East of Intersection with Mt. Airy Road 32 - 2 - 12.22			
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/Alteration			
6. DESCRIBE PROJECT BRIEFLY: Seek use variance to authorize existing four (4) family dwelling			
7. AMOUNT OF LAND AFFECTED: Initially 41,724 sq. ft. xxxx Ultimately 41,724 sq. ft. xxxx			
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If No, describe briefly This is an existing four (4) family dwelling; only two (2) family dwellings are allowed in this zone.			
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe:			
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency(s) and permit/approvals Variance from New Windsor Zoning Board of Appeals			
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency name and permit/approval New Windsor Building Department has issued building permit and Certificate of Occupancy for existing structure as a two (2) family dwelling.			
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE			
Applicant/sponsor name: PIERRE BELLE		Date: 10/23/95	
Signature: _____			

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

OVER

PART II—ENVIRONMENTAL ASSESSMENT (To be completed by Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.127 If yes, coordinate the review process and use the FULL EAF.
☐ Yes ☐ No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.87 If No, a negative declaration may be superseded by another involved agency.
☐ Yes ☐ No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:

C7. Other Impacts (including changes in use of either quantity or type of energy)? Explain briefly:

D. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?
☐ Yes ☐ No If Yes, explain briefly

PART III—DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed.

☐ Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

☐ Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide on attachments as necessary, the reasons supporting this determination:

Name of Lead Agency

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from responsible officer)

Date

DEPRec'd 10/23/95
ZBA

(PAB)

October 23, 1995

New York City
Department of
Environmental
Protection**FAXED 10/23/95**James Nugent, Chairman
Town of New Windsor Zoning Board
555 Union Avenue
New Windsor, New York 12553Bureau of Water
Supply & Wastewater
CollectionRe: Zoning Board of Appeals
Hearing, October 23, 1995
TM:32-2-12.22, 12.23, 12.24Sources Division
(914) 742-2002

Dear Mr. Nugent:

This is in response to an application by Pierre Belle for a zoning variance which would allow the retention of three recently converted four-family dwellings in an R-3 zone.

465 Columbus Ave.
Valhalla, New York 10595
1336

Be advised that this Department opposes the granting of variances which would allow non-conformance with existing Town zoning regulations. We are especially concerned since the Catskill Aqueduct is located directly adjacent to the southern side of tax lots 12.22 through 12.24.

MARILYN GELBER
Commissioner

Before the Board's final decision we would appreciate it if the Town required the applicant erect a substantial fence, in conformance with Town Building codes, along the City's property line separating tax lots 12.22 through 12.24 from City land and thereby preventing trespass, encroachment and dumping on the Catskill Aqueduct property.

Robert P. Lemieux
First Deputy
Commissioner &
Acting Director

Please be guided accordingly.

Very truly yours,

*Marilyn Shanahan*Marilyn Shanahan
Manager
Office of Water Supply Lands

Rec'd. ZBA
10/23/95 (PAB)

20 October 1995

Town of New Windsor
Zoning Board of Appeals
555 Union Avenue
New Windsor, New York 12553

ATTENTION: JAMES NUGENT; CHAIRMAN

**SUBJECT: TAX LOT 32-2-12.22
ZONING VARIANCE REQUEST**

Dear Chairman Nugent and Board:

I will be unable to attend the Hearing for subject project scheduled on 23 October 1995. I would, however, like to request that this application be denied. The proposal to develop a four-family dwelling unit in the R3 zone is not only inconsistent with the R3 zoning requirements, only allowing two-family dwelling units, but the proposal for a four-family multiple dwelling unit is not in character with the neighborhood consisting primarily of single-family residential homes.

The application to the ZBA for a Variance to permit a four-family dwelling unit is deficient. The application does not also request a Variance as a result of expanding a previously non-conforming use with respect to lot area.

I would further like to point out that the R3 Zone for a two-family dwelling unit requires a lot area of 65,340 square feet. The lot area for Tax Lot 12.22 equals only 41,724 square feet. The conversion of a two-family dwelling unit to a four-family dwelling unit should, therefore, require an additional Variance in light of the expansion of a non-conforming use for lot area.

In addition to the above, upon review of the Building Department file I found that each of the two-family dwelling units are served by individual sewage pumps and a small diameter (1 1/4") sewer. The size of the sewage pump station and force main in the street may not be adequate in size to serve the 12 dwelling units proposed along Belle Court.

Town of New Windsor
Zoning Board of Appeals

-2-

20 October 1995

In summary, the original zoning of the Belle Court area was for single-family homes. The Town Board in 1986 amended the Zoning of this area to an R3 Zone which allowed two-family dwelling units with central sewers on large lots. A Variance to allow 3 separate two-family dwelling units to be converted to four-family dwelling units on substandard size lots in clearly a violation of the Ordinance and should not be allowed.

Further, in support of my request for denial, the Zoning Board should require that the Applicant clearly demonstrate the economic hardship that is resulting from the present use of the property as a two-family dwelling unit and why it is necessary to convert the dwelling units to four-family multiple dwelling units.

Thank you for your positive consideration of my request.

Very truly yours,

Carol A. Owen
Carol A. Owen

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

In the Matter of Application for Variance of

Pierre Belle. III

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

#95-40.

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On October 6, 1995, I compared the 26 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
10th day of October, 1995.

Deborah Queen
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 1997

(TA DOCDISK#7-030586.AOS)



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

26

May 9, 1995

Belle, Pierre III
2 Belle Ct.
New Windsor, NY 12553

Re: Tax Map Parcel #32-2-12.22, 32-2-12.23, 32-2-12.24

Dear Mr. Belle:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$45.00, minus your deposit of \$25.00.

Please remit the balance of \$20.00 to the Town Clerk's office.

Sincerely,

Leslie Cook /cad

Leslie Cook
Sole Assessor

/cad
Attachment

~~CONFIDENTIAL - ATTORNEY GENERAL~~

Karnavezos, Thomas N. & Andrea X
132 MT. Airy Rd.
New Windsor, NY 12553

Karnavezos, Nickolas P. & Carla Joy X
124 MT. Airy Rd.
New Windsor, NY 12553

Karnavezos, Peter & Sophia X
124 MT. Airy Rd.
New Windsor, NY 12553

Fayo, Anna E. X
134 MT. Airy Rd.
New Windsor, NY 12553

Silver Stream, Inc. X
614 Little Britain Rd.
New Windsor, NY 12553

Brown, Irene V. & Vomund, Dorothy
Vesely, Mary & Vesely, Stanley X
c/o Stanley Vesely
8 Walcott Rd.
Beverly, MA 01915

New York City Dept. of E P X
c/o City of New York Dep Bureau of Water Supply OWSL
465 Columbus Ave., Suite 350
Valhalla, NY 10595

Newburgh Water Supply X
City Comptroller
City Hall
Newburgh, NY 12550

Heady, Steven S. & Johnson, Jennifer V.
390 Moores Hill Rd.
New Windsor, NY 12553 X

Sarvis, William S. & Nancy J. X
167 Moores Hill Rd.
New Windsor, NY 12553

County of Orange X
255-275 Main St.
Goshen, NY 10924

Petro, Frederick & Patricia X
172 Moores Hill Rd.
New Windsor, NY 12553

Vesely, Frank & Anna X
RD 2 Moores Hill Rd.
New Windsor, NY 12553

De Rosa, Louis & Elizabeth
147 MT. Airy Rd.
New Windsor, NY 12553

Dorry, Jerome T. Jr. & Karen A.
142 MT. Airy Rd.
New Windsor, NY 12553

Fusco, Salvatore R. & Mary C.
140 MT. Airy Rd.
New Windsor, NY 12553

Rottinger, Jean & Robert F., Jr.
MT. Airy Rd. RD 2
New Windsor, NY 12553

Rottinger, Jean & Calvino, Michael & Lancaster, Antoinette
387B MT. Airy Rd.
New Windsor, NY 12553

Domalavage, Albert & Patricia
14 Elizabeth Lane
New Windsor, NY 12553

Yankow, Rickie A. & Eileen B.
16 Elizabeth Lane
New Windsor, NY 12553

Owens, Carol A.
18 Elizabeth Lane
New Windsor, NY 12553

Plante, Ernest J. Jr. & Janice
129 MT. Airy Rd.
New Windsor, NY 12553

Keefe, John Jr. & AnnaMarie
131 MT. Airy Rd.
New Windsor, NY 12553

Mason, Herbert
110 MT. Airy Rd.
New Windsor, NY 12553

Johns, Winthrop D.
9 Elizabeth Lane
New Windsor, NY 12553

Morris, Gregory A. & Colleen R.
11 Elizabeth Lane
New Windsor, NY 12553

APPEARANCE TICKET
TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK

Recd. TA office
6/14/95 (PAB)

Posted
12.22

TO: Pierre Belle
(name)

ADDRESS: 2 Belle Court, New Windsor, N.Y. 12553

YOU ARE HEREBY NOTIFIED to appear personally in the Town Court of the
Town of New Windsor, located at 555 Union Avenue, New Windsor, New
York on the 27 day of June, 19 95, at 7:00 PM

o'clock in the ~~fore~~/after noon to answer a charge of failing or
Neglecting to obtain a building permit and
Certificate of occupancy for A2 to B1
conversion at 12 Belle Court, New
Windsor, NY

in violation of Section 21, Subdivision 69, of
Fire Prevention
(specify full name of ordinance or local law)

of the Town of New Windsor and/or _____,
(state statute)

an offense.

UPON YOUR FAILURE TO APPEAR AS ABOVE DIRECTED, A WARRANT MAY BE ISSUED
FOR YOUR ARREST.

Issued on this 14 day of June, 19 95.

SIGNED: McDonald
TITLE: Assistant Fire Inspector

DISTRIBUTION: WHITE - COURT PINK - FILE YELLOW - RECIPIENT

The foregoing factual allegations are based upon personal knowledge of the complainant (and upon information and belief, the sources of complainants information and belief being, that Pierre Belle failed or neglected to obtain a building permit and certificate of occupancy from the New Windsor Building Department for the conversion of a two family dwelling to a multiple dwelling, contrary to the provisions of the Town of New Windsor Fire Prevention Law; Section 21-6g

Wherefore, Complainant prays that Pierre Belle be dealt with pursuant to law.

**Subscribed and Sworn to before me on

_____, 19____

Name _____

Title or Office _____ Complainant _____

*set forth statutory language constituting the offense
**use only one

**Verification By Subscription and Notice Pursuant to CPL Section 100.30, subd. 1, par d.

False statements made in the foregoing instrument are punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. Accordingly and with notice of the foregoing, I hereby affirm that the foregoing statements of facts are true, under penalty of perjury, this 14 day of June, 1995.

J. McDonald
Complainant

Appearance Ticket issued to Defendant(s) Yes ☒ No ☐ For Court Appearance on June 27 1995

Time 7:00 PM at 555 Union Avenue, New Windsor N. Y.

Bail Posted. Yes ☐ No ☒ \$ _____ With _____

STATE OF NEW YORK
Orange County
Justice Court
of Town of New Windsor
The People of the State of New York
against
Pierre Belle

Defendant

Information

Filed this _____ day
of _____, 19____
Judge - Justice

STATE OF NEW YORK : COUNTY OF Orange
Justice COURT Town OF New Windsor

The People of the State of New York

against

Pierre Belle

Defendant

Information

John McDonald

working

~~residing~~ at

555 Union Avenue, New Windsor, New York

by this information makes
written accusation as follows:

That Pierre Belle, on the 14th

day of June, 19 95, at 12 Belle Court

(Location)

in the Town of New Windsor

County of Orange, New York, did

commit the offense of failing or neglecting to obtain a building permit and certificate of

occupancy for a A2 to B1 conversion, a (misdemeanor) ~~violation~~ in violation of Section 21-6g

Town of New Windsor

of the Fire Prevention Law of the State of New York, in that (s)he did, at the aforesaid time and place*

" If during an inspection it is determined that the owner of a building or
Count One: structure does not have a certificate of occupancy as issued by the Building
Department of the Town of New Windsor, the owner shall be given a maximum of five (5) days
in which to apply for a certificate of occupancy and thirty (30) days in which to obtain
the certificate of occupancy."

The facts upon which this information is based are as follows:

On January 13, 1995 a routine fire safety inspection was conducted at
12 Belle Court, New Windsor, New York (New Windsor Tax Map Sec/Blk/Lot:
32/2/12.22). It was observed that there had been a conversion of a two
family dwelling (A2) to a mutiple dwelling (B1) without a building permit
or certificate of occupancy from the New Windsor Building Department. An
Order to Remedy Violation Notice was issued to the property owner Pierre
Belle to obtain a building permit and certificate of occupancy from the
New Windsor Building Department for the conversion of a two family dwelling
to a multiple dwelling.

Reinspections were conducted on 2/15/95, 3/13/95, 4/3/95, 5/16/95 and
6/14/95 and it was observed that Pierre Belle had failed to comply with the
requirements outlined in the Order to Remedy Violation Notice.

The foregoing factual allegations are based upon personal knowledge of the complainant (and upon information and belief, the sources of complainants information and belief being, that Pierre Belle failed or neglected to obtain a building permit and certificate of occupancy from the New Windsor Building Department for the conversion of a two family dwelling to a multiple dwelling, contrary to the provisions of the Town of New Windsor Fire Prevention Law; Section 21-6g

Wherefore, Complainant prays that Pierre Belle be dealt with pursuant to law.

**Subscribed and Sworn to before me on

_____, 19____.

Name

Title or Office

Complainant

*set forth statutory language constituting the offense

**use only one

**Verification By Subscription and Notice Pursuant to CPL Section 100.30, subd. 1, par d.

False statements made in the foregoing instrument are punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. Accordingly and with notice of the foregoing, I hereby affirm that the foregoing statements of facts are true, under penalty of perjury, this 14 day of June, 1995.

frmcDonald
Complainant

Appearance Ticket issued to Defendant(s) Yes ☒ No ☐ For Court Appearance on June 27 1995

Time 7:00 PM at 555 Union Avenue, New Windsor N.Y.

Bail Posted. Yes ☐ No ☒ \$ _____ With _____

STATE OF NEW YORK

Orange County

Justice Court

of Town of New Windsor

The People of the State of New York

against

Pierre Belle

Defendant

Information

Filed this _____ day
of _____, 19____.

Judge - Justice



TOWN OF NEW WINDSOR

Bureau of Fire Prevention
555 Union Avenue
New Windsor, New York 12553
(914) 563-4617

ORDER TO REMEDY VIOLATION

TO: Pierre Belle

ADDRESS: 2 Belle Ct., New Windsor, NY. 12553

PLEASE TAKE NOTICE there exists a violation of the following code:

TITLE 9 NEW YORK CODE OF RULES
AND REGULATIONS

CHAPTER 21 CODE OF THE TOWN
OF NEW WINDSOR

SECTION _____

SECTION 6-6

TITLED _____

TITLED Fire Prevention

PAGE _____

PAGE 2109

at premises hereinafter described in that A Building Permit
And Certificate of Occupancy Shall be obtained from
The New Windsor Building Department for the
Conversion of A two (2) Family to Multiple Dwelling
At Belle Court, New Windsor, NY. 12553

Sec/Bk/Lot. 32/2/12.22

YOU ARE THEREFORE DIRECTED AND ORDERED to comply with the law and to remedy the conditions above mentioned forthwith. A reinspection will be conducted on 13 day of February 1995. Failure to remedy the conditions aforesaid and to comply with the applicable provisions of law may constitute an offense punishable by fine or imprisonment or both.

DATE: 13 January 1995

J. McDonald
Fire Inspector

OFFICE OF THE BUILDING INSPECTOR - TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK

Ap. #1
Prelim.
Sept. 11, 1995
#95-40

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: JULY 13, 1995

APPLICANT: PIERRE P. BELLE III
2 BELLE COURT
NEW WINDSOR, N.Y. 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED:

FOR (BUILDING PERMIT):

LOCATED AT: 2 BELLE COURT

ZONE: R-3

DESCRIPTION OF EXISTING SITE: SECTION: 32, BLOCK: 2, LOT: 12.22

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. FOUR (4) FAMILY NOT PERMITTED IN AN R-3 ZONE.


BUILDING INSPECTOR

REQUIREMENTS

PROPOSED OR
AVAILABLE

VARIANCE
REQUEST

ZONE: R-3 USE

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT
914-563-4630 TO MAKE AN APPOINTMENT WITH THE ZONING BOARD

CC: Z.B.A., APPLICANT, B.P. FILES.

SENT TO ZBA 7-13-95 (MA)

IMPORTANT
REQUIRED INSPECTIONS OF CONSTRUCTION - YOU MUST CALL FOR THESE

OTHER INSPECTIONS WILL BE MADE IN MOST CASES, BUT THOSE LISTED BELOW MUST BE MADE OR CERTIFICATE OF OCCUPANCY MAY BE WITHHELD. DO NOT MISTAKE AN UNSCHEDULED INSPECTION FOR ONE OF THOSE LISTED BELOW. UNLESS AN INSPECTION REPORT IS LEFT ON THE JOB INDICATING APPROVAL OF ONE OF THESE INSPECTIONS, IT HAS NOT BEEN APPROVED, AND IT IS IMPROPER TO CONTINUE BEYOND THAT POINT IN THE WORK. ANY DISAPPROVED WORK MUST BE REINSPECTED AFTER CORRECTION.

1. WHEN EXCAVATING IS COMPLETE AND FOOTING FORMS ARE IN PLACE (BEFORE POURING).
2. FOUNDATION INSPECTION. CHECK HERE FOR WATERPROOFING AND FOOTINGS DRAINS.
3. INSPECT GRAVEL BASE UNDER CONCRETE FLOORS, AND UNDERSLAB PLUMBING.
4. WHEN FRAMING IS COMPLETED, AND BEFORE IT IS COVERED FROM INSIDE, AND PLUMBING ROUGH-IN.
5. INSULATION.
6. PLUMBING FINAL & FINAL HAVE ON HAND ELECTRICAL INSPECTION DATA AND FINAL CERTIFIED PLOT PLAN. BUILDING IS TO BE COMPLETED AT THIS TIME. WELL WATER TEST REQUIRED AND ENGINEERS CERTIFICATION LETTER FOR SEPTIC SYSTEM REQUIRED.
7. DRIVEWAY INSPECTION MUST MEET APPROVAL OF TOWN HIGHWAY INSPECTOR. A DRIVEWAY BOND MAY BE REQUIRED.
8. \$20.00 CHARGE FOR ANY SITE THAT CALLS FOR THE INSPECTION TWICE.
9. PERMIT NUMBER MUST BE CALLED IN WITH EACH INSPECTION.
10. THERE WILL BE NO INSPECTIONS UNLESS YELLOW PERMIT CARD IS POSTED.
11. SEWER PERMITS MUST BE OBTAINED ALONG WITH BUILDING PERMITS FOR NEW HOUSES.
12. SEPTIC PERMIT MUST BE SUBMITTED WITH ENGINEER'S DRAWING & PERC TEST.
13. ROAD OPENING PERMITS MUST OBTAINED FROM TOWN CLERKS OFFICE.
14. ALL BUILDING PERMITS WILL NEED A CERTIFICATION OF OCCUPANCY OR A CERTIFICATE OF COMPLIANCE AND THERE IS A FEE FOR THIS

Name of Owner of Premises Priscilla P. Belke III
Address 2 Belke Ct. Phone 564-4488
Name of Architect _____
Address _____ Phone _____
Name of Contractor _____

State whether applicant is owner, lessee, agent, architect, engineer or builder..... OWNER

If applicant is a corporation, signature of duly authorized officer.

(Name and title of corporate officer)

1. On what street is property located? On the Right side of Belle Court
(N.E. or W.)
and 500 feet from the intersection of 11th Ave Rd
2. Zone or use district in which premises are situated R4A 2 Family Is property a flood zone? Yes..... No ☒
3. Tax Map description of property: Section 32 Block 2 Lot 12, 22
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.
a. Existing use and occupancy 2 Family b. Intended use and occupancy 4 Family
5. Nature of work (check which applicable): New Building..... Addition..... Alteration ☒ Repair.....
Removal..... Demolition..... Other.....
6. Size of lot: Front 250.25 Rear 250.25 Depth 173.99 Front Yard 73.2 Rear Yard 51.6 Side Yard 104.1
Is this a corner lot?
7. Dimensions of entire new construction: Front..... Rear..... Depth..... Height..... Number of stories.....
8. If dwelling, number of dwelling units 4 Number of dwelling units on each floor 2
Number of bedrooms 6 Baths 4 Toilets 4
Heating Plant: Gas..... Oil ☒ Electric/Hot Air..... Hot Water ☒
If Garage, number of cars.....
9. If business, commercial or mixed occupancy, specify nature and extent of each type of use
10. Estimated cost..... Fee.....
(to be paid on this application)
11. School District CORNWALL

Costs for the work described in the Application for Building Permit include the cost of all the construction and other work done in connection therewith, exclusive of the cost of the land. If final cost shall exceed estimated cost, an additional fee may be required before the issuance of Certificate of Occupancy.

TOWN OF NEW WINDSOR, ORANGE COUNTY, N. Y.

Examined.....19.....
Approved.....19.....
Disapproved a/c.....
Permit No.

Office Of Building Inspector
Michael L. Babcock
Town Hall, 555 Union Avenue
New Windsor, New York 12550
Telephone 565-8807

Refer — APPLICATION FOR BUILDING PERMIT

Planning Board.....
Highway.....
Sewer.....
Water.....
Zoning Board of Appeals

Pursuant to New York State Building Code and Town Ordinances

Date.....19.....

INSTRUCTIONS

- a. This application must be completely filled in by typewriter or in ink and submitted in duplicate to the Building Inspector.
- b. Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram which is part of this application.
- c. This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- d. The work covered by this application may not be commenced before the issuance of a Building Permit.
- e. Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- f. No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions or alterations, or for removal or demolition or use of property, as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

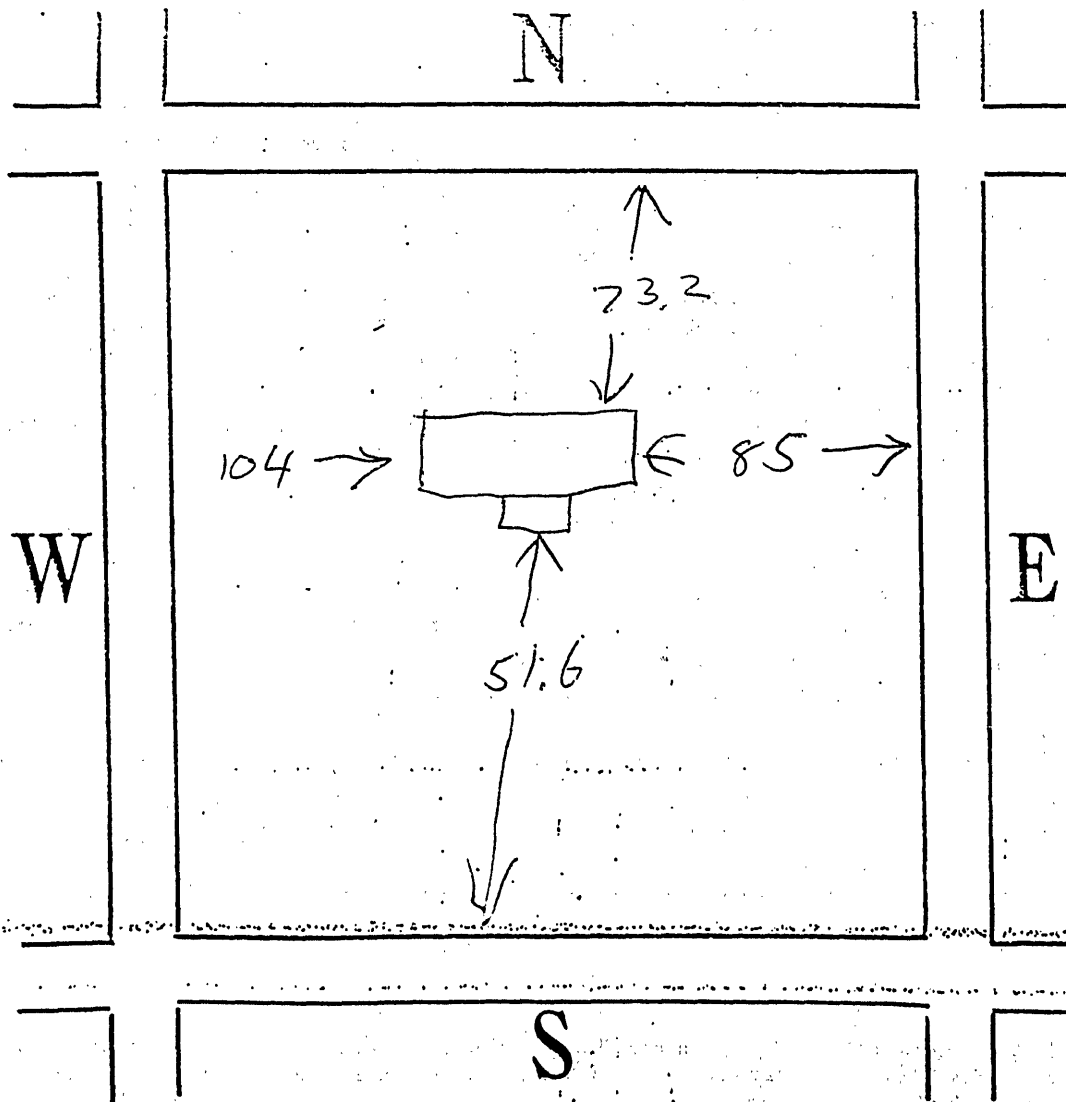
Rene P. Belle Jr.
(Signature of Applicant)

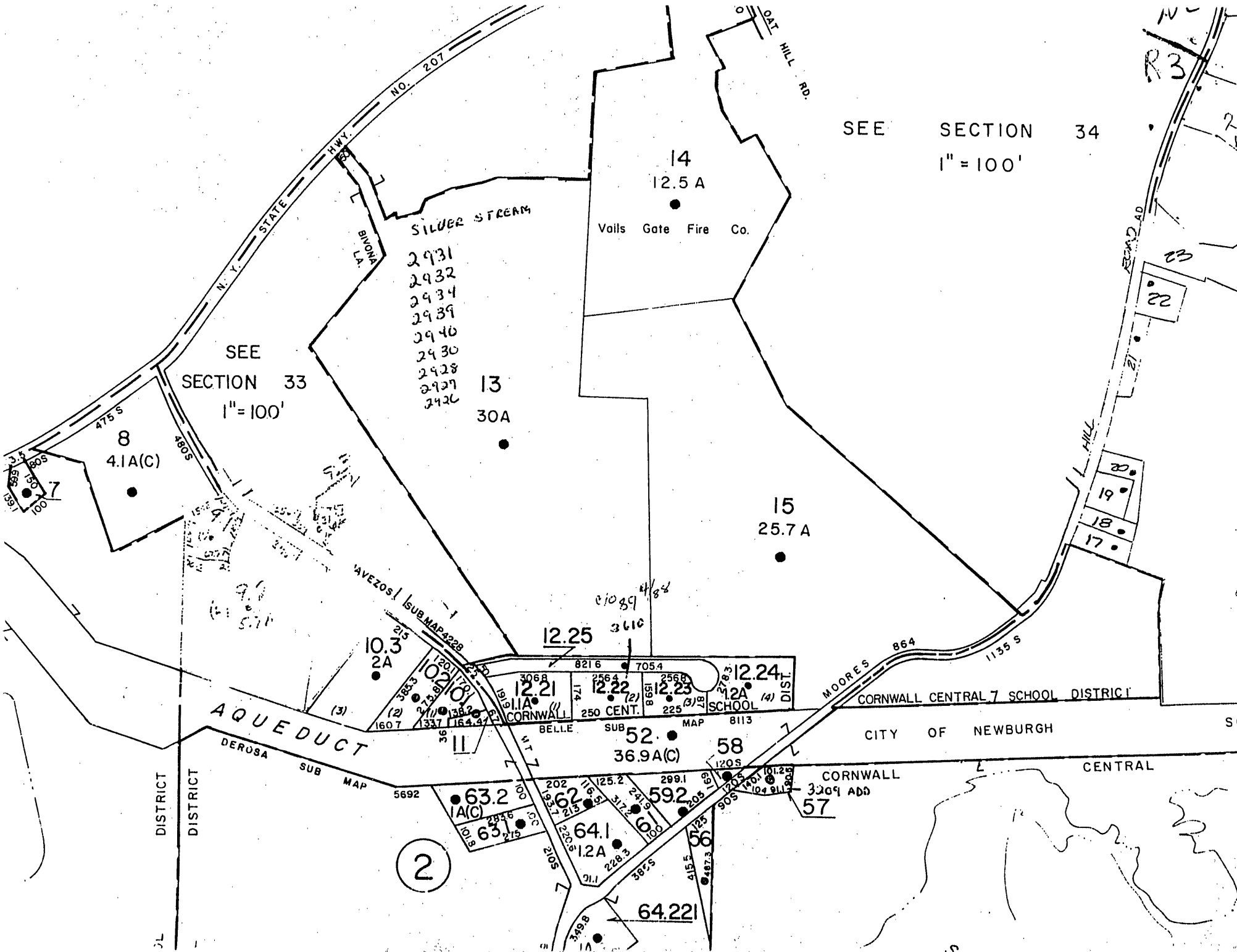
2 Belle Court
(Address of Applicant)

PLOT PLAN

NOTE: Locate all buildings and indicate all set-back dimensions.

Applicant must indicate the building line or lines clearly and distinctly on the drawings.





This Indenture,

Made the 8th
Eighty-five,

day of January, Nineteen Hundred and

LIDER 2317 PG 74

Between JOHN J. D'ANGELO, residing at 12 Dogwood Hills,
New Windsor, New York 12550.

part y of the first part, and

PIERRE P. BELLE, III, residing at 36 Old South Plank Road,
Newburgh, New York 12550,

part y of the second part,

Witnesseth, that the part y of the first part, in consideration of

Ten and no/100 ----- Dollars

(\$10.00-----) lawful money of the United States, and other good and
valuable consideration paid by the part y of the second part,

do es hereby grant and release unto the part y of the second part,
to him and assigns forever, all that certain plot, piece or
parcel of land situate, lying and being in the Town of New Windsor,
County of Orange and State of New York, lying to the east of
Bethlehem Road and more accurately bounded and described as follows:

BEGINNING at a point in the center of Bethlehem Road, (said road
runs from Route 207 to Bethlehem Church on Route 94) in range with a
concrete post and woven wire fence marking the northerly boundary of the
New York City Aquaduct and runs thence the following courses and
distances, 1) NORTH 7° 49' 55" EAST along the center of the afore-
mentioned highway, a distance of 49.24 feet to a point; thence 2)
Further along the center of said highway on a curve to the left having
a radius of 466.23 feet, and whose chord to the next point is NORTH
3° 17' 04" WEST a distance of 242.77 feet to a point in range with a
stone wall; thence 3) Leaving the road and following the center of a
stone wall SOUTH 56° 55' 04" EAST distance of 1186.79 feet to a stake
set in the corner of two stone walls; thence 4) Along the center of
another stone wall SOUTH 33° 57' 26" WEST a distance of 182.18 feet to
a point in the northerly boundary of the New York City Aquaduct; thence

050730

TOWN OF NEW WINDSOR
Section 32 Block 2 Lot 12.2

5) Along the northern boundary of said aquaduct, marked by a concrete post and woven wire fence NORTH 60° 09' 55" WEST a distance of 1020.71 feet to the point and place of beginning, containing 5.37 acres of land more or less, excepting and reserving therefrom that portion which falls within the bounds of Bethlehem Road.

BEING AND INTENDED to be the same premises as conveyed by Antonio DeRosa by deed dated April 17, 1975 to Louis R. and Elizabeth DeRosa said deed being recorded in the Orange County Clerks Office on April 21, 1975 in liber 2005 of deeds at page 539.

BEING and intended to be the same premises described in deed made by Louis R. DeRosa and Elizabeth DeRosa his wife to John J. D'Angelo dated January 4, 1980 recorded January 8, 1980 in Liber 2154 of deeds at page 430 in the Orange County Clerks Office.

EXCEPTING AND RESERVING therefrom all that portion thereof described in deed made by John J. D'Angelo to Mark A. Storms and Coleen M. Storms, his wife dated August 3, 1983 recorded August 4, 1983 in Liber 2258 of deeds at page 495 Orange County Clerks Office.

The above described parcel and excepted parcel being shown on "Proposed Lot Line Change Lands of John J. D'Angelo" filed in the Orange County Clerks Office on June 13, 1983 as Map #6257.

Together with the appurtenances and all the estate and rights of the
part y of the first part in and to said premises,


To have and to hold the premises herein granted unto the part y
of the second part, to him
and assigns forever.

RECORDED
2017 FEB 7

And

the part y of the first part covenant that he has not done
or suffered anything whereby the said premises have been incumbered in any
way whatever.

In Witness Whereof, the part y of the first part has
hereunto set his hand and seal the day and year first above written.
In Presence of

John J. D'Angelo 
John J. D'Angelo

State of New York

County of ORANGE

of

ss..

On this 8th day of January Nineteen Hundred and
Eighty-five before me, the subscriber, personally appeared

JOHN J. D'ANGELO,

to me personally known and known to me to be the same person described
in and who executed the within Instrument, and he
acknowledged to me that he executed the same

Albert P. Pacione Jr.
ALBERT P. PACIONE JR.
Notary Public, State of New York
Qualified in Orange County
My Commission Expires Mar 20, 1985

J. TAD SEAMAN, P.C.
Attorney at Law

542 Union Avenue
New Windsor, New York 12553

Rec'd. ZBA
2/23/95 (PAB)

2
Copies

Sent out
2/23/95

(914) 565-5200
Fax (914) 565-7158

February 8, 1995

Pat Barnhart
New Windsor Zoning Board of Appeals
555 Union Avenue
New Windsor, New York 12553

RE: Pierre Belle
Belle Court, New Windsor, NY
S-32 B-2 L-12.22, 12.23 and 12.24

Dear Pat:

I represent Pierre Belle of 2 Belle Court, New Windsor, New York. Mr. Belle converted three (3) two-family structures to three (3) four-family units. Would you please forward an application and supporting paperwork for the use variance application.

Very truly yours,



J. TAD SEAMAN

JTS/jel
cc: John McDonald, Fire Inspector